

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 1, 2008

**D050963      People v. Gartley**

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Aaron, J.

**D051280      Calliope Media, Inc. v. Ryan et al.**

The court accepted the appellants' notice of settlement filed on October 4, 2007, and granted the appellant 45 days to file an abandonment of the appeal or a request to dismiss the appeal. (Cal. Rules of Court, rule 8.244(a)(3).) On December 18, 2007, the court accepted the parties' stipulation that the appeal should not be dismissed until February 15, 2008, pending resolution of a dispute regarding the settlement. As of this date no notice of abandonment, request to dismiss or letter stating good cause why the appeal should not be dismissed has been filed with the court. Therefore, the appeal is DISMISSED and each party shall bear its own costs on appeal. (Cal. Rules of Court, rule 8.244(a)(4).)

**D050437      In re Yesenia M., a Juvenile**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

**D051892      In re Hector G., a Juvenile**

The orders are affirmed. Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 2, 2008

**D052247      In re the Marriage of Kidwell**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

**D050460      Mabeus v. San Diego County Sheriff's Department et al.**

The judgment is affirmed. The Department is entitled to costs on appeal. Aaron, J.;

We Concur: O'Rourke, Acting P.J., Irion, J.

**D051663      In re Robert H., a Juvenile**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

**D050883      Oprime Investments, Inc. v. Dimeo**

The order is affirmed. Respondent shall recover costs on appeal. Nares, Acting P.J.;

We Concur: Aaron, J., Irion, J.

**D050420      People v. Bystrova**

Order affirmed. Nares, J.; We Concur: McConnell, P.J., Irion, J.

**D049036      Monteil v. Greenbaum, Jr.**

The petitions for rehearing are denied.

**D049322      In re Marriage of Brown**

The judgment is reversed insofar as to the permanent spousal support award and the requirement that Kathryn reimburse David for \$45,324 he incurred for the children's health care expenses that were not covered by insurance. In all other respects, the judgment is affirmed. The matter is remanded for further proceedings consistent herewith. Each side is to bear his or her own costs on appeal. McIntyre, J. We Concur: Benke, Acting P.J., Irion, J.

**D049471      Keener et al. v. Jeld-Wen Inc., et al.**

The judgment is reversed in part with directions to the trial court to conduct such further proceedings as will implement the existing special verdict as to its first eight questions and answers, while allowing appropriate additional proceedings on the issue of apportionment of liability only. Each party is to bear its own costs on appeal. CERTIFIED FOR PARTIAL PUBLICATION. Huffman, Acting P.J.;

We Concur: Haller, J., Aaron, J.

**D052478      Swan v. Superior Court of Imperial County/People**

The petition is dismissed as moot.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 2, 2008 (Continued)

**D052769      People v. Moore**

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is DISMISSED without prejudice to refiling a notice of appeal after an appealable order or judgment is entered.

**D051988      KMS Courier Inc., et al. v. Edge Logistics Services Corp.**

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D052634      Conservatorship of the Person and Estate of Winter**

Appellant has not obtained an order from the Presiding Justice of this court permitting the filing of the appeal. The appeal is ordered dismissed.

**D052578      In re the Marriage of Evans**

Pursuant to California Rules of Court, rule 8.140, the appeal filed on February 7, 2008, from the January 31, 2008, minute order is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rule 8.121(a)). The notice of appeal filed on March 5, 2008, from the February 21, 2008, formal order after hearing is duplicative of the February 7 notice of appeal and is unnecessary, because the February 21 formal order and the January 31 minute order both reflect the trial court's rulings from the January 31 hearing and, therefore, are the same order. For purposes of appeal, the entry date of the order is January 31, 2008. (Cal. Rules of Court, rule 8.104(d)(2)). Accordingly, appellant's time to designate the record under California Rules of Court, rule 8.121(a) ran from February 7, 2008, the date the initial notice of appeal was filed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 3, 2008

**D052322      In re Shanda H., a Juvenile**

Appellant has failed to file a brief after notice given. The appeal is dismissed.

**D050134      Trup et al. v. Manock et al.**

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. The trial court shall award the costs on appeal on completion of the proceedings in this case. McDonald, J.; We Concur: Benke Acting P.J., Haller, J.

**D051014      Syber Sales & Marketing, Inc. v. California Building & Remodeling Inc., et al.**

The judgment of dismissal is reversed. The trial court is directed to grant Syber Sales & Marketing, Inc. leave to file an amended cross-complaint consistent with this opinion. The parties are to bear their own costs on appeal. O'Rourke, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D052503      Albertsons Inc., et al. v. Superior Court of San Diego County/Weisz et al.**

The petition for writ of mandate and request for stay have been read and considered by Justices Nares, McDonald and Irion. The petition is denied.

**D052439      People v. Archuleta**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

**D051593      San Diego Unified School District v. Alexander**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

**D050880      Otay River Constructors v. South Bay Expressway, L.P. et al.**

Order affirmed. Respondents are entitled to their costs on appeal. Haller, Acting P.J.; McDonald, J., McIntyre, J.

**D049748      People v. Allen**

The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

**D050114      Marvel v. Superior Ready Mix Concrete**

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 4, 2008

**D051504      People v. Hernandez**

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Irion, J.

**D051436      People v. Carter**

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

**D050273      Millbrae Serra Sanitarium Inc., et al. v. State of California et al.**

The judgment is affirmed. Defendants are entitled to costs on appeal. McConnell, P.J.; We Concur: Nares, J., Irion, J.

**D050263      Harvey v. The Landing Homeowners Association et al.**

The judgment is affirmed. Defendants are entitled to their costs on appeal. Benke, J.; We Concur: McConnell, P.J., McIntyre, J.

**D051038      People v. Bennett**

The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., Irion, J.

**D050130      Quiogue et al. v. Hemerick**

Appellant's petition for rehearing is denied.

**D051046      In re Valerie W., a Juvenile**

The judgments are reversed. The court is directed to order the Agency to complete an assessment in compliance with section 366.21, subdivision (i). The court is further directed to hold a new hearing under section 366.26 to select and implement a permanent plan for the children. Nares, J.; We Concur: McConnell, P.J., McIntyre, J.